

MINUTES

Montana Fish, Wildlife & Parks UGBEPAC Meeting Pondera Shooting Sports Club Building Conrad, MT

March 24, 2010 (Meeting 5)

Advisory Council Members Present: Representative Julie French, Mike Begley, Terry Comstock, Jay Gore, Bernie Hart, Gordon Haugen, Bill Howell, Mike Jensen, Joe Perry, Craig Roberts, Senator Jim Shockley, Dale Tribby, Matt Walker.

Fish, Wildlife & Parks Staff Present: Ashley Beyer, Pat Gunderson, Drew Henry, Debbie Hohler, Quentin Kujala, Bob Lane, Cory Loecker, Brent Lonner, Gary Olson, Rick Northrup, Paul Sihler, Graham Taylor.

Wednesday, March 24. Council attended a morning tour of 4 UGBHEP projects in the Conrad area. Other attendees included Stan French (Daniels County Conservation District), Jane Holzer (Program Director, Montana Salinity Control Assoc.), Scott Brown, Paul McGinnis (Beaverhead Chapter Pheasants Forever).

1. **Opening.** Representative French called the meeting to order at 1:30 pm.
2. **Meeting focus.** The meeting focus was on strategic plan development with discussions focused on program implementation for upland bird releases and habitat enhancement.

Minutes from January 20, 2010, were approved with the following corrections noted:

- Include percentage of 2009 pheasant releases.
 - Include the Council vote on recommendations for funding upland game bird releases and emergency supplemental feeding.
3. **USDA-NRCS Farm Bill Program presentation by Matt Walker, NRCS Biologist (Great Falls).** Highlights of Matt's presentation included:
 - Overview of USDA Farm Bill Programs and the importance of merging NRCS and FWP programs to ensure access is maintained. Matt pointed out that there can be a challenge melding NRCS programs with FWP

because of the timeline. For example, applications for NRCS programs must be received by June 2010 yet the practice won't go in until spring 2012. It's easier for NRCS to contact FWP when the project is ready to go into the ground.

- NRCS cost list model – the new NRCS cost-list no longer utilizes a 75% cost-share. Rather, NRCS will pay the producer for installing a practice. This method facilitates contract and program implementation while still meeting the needs of NRCS programs. FWP staff will explore opportunities with the Legislative Audit Division to determine if a similar model could be used with UGBHEP. The Council recognized the need to facilitate program implementation.
- Greater Sage-Grouse Conservation Strategy. USDA will provide \$16 million this fiscal year for this national initiative. The exact amount of funding allocated for Montana is yet to be determined. Matt provided information that producers who defer grazing on 20% of nesting cover for 15 months will receive \$10/acre.
- Matt provided an example of a partnership with NRCS and the UGBHEP.

Discussion followed. The Council asked for that Rick Northrup, Dave Risley, and Ken McDonald report back to the Council regarding the meeting with Joyce Swartzendruber, NRCS State Conservationist.

4. **FWP conservation easement process.** Paul Sihler, FWP Lands/Outreach Supervisor, gave a presentation on conservation easement appraisals; the approval process; and addressed the Council's concern on impacts on property taxes. Paul also informed the Council that the department is looking to establish an evaluation process with regards to assessing the price of a perpetual access agreement. Discussion followed. Council asked whether FWP has ever purchased a Land Use License for 15 or 30 years (*Begley*). The Department has not. Dale Tribby asked if FWP has ever assessed a price for perpetual access. Paul Sihler responded that FWP is beginning to look at this, but need to establish an evaluation process.
5. **Review of UGBHEP contracts.** Debbie Hohler gave a presentation on current UGBHEP contract language that addresses landownership changes (partial and complete); noncompliance; and other proposed changes to the contract. Through the term of the contract, the Habitat Project Site and Public Access Area should be protected. How can we improve the UGBHEP contracts to ensure they

are viable, practical, and enforceable while maintaining a high degree of accountability? Discussion followed on recording of notice and risk assessment.

- Sen. Shockley stated that if a contract is in default, FWP should seek 100% repayment – no liquidated damages.
- FWP should consider liquidated damages on a sliding scale basis with the burden on the landowner. (*Begley*)
- Consider a license where the cooperator gives the department access rights, a “Conservation License.” FWP would be administrator of that license. For example, cooperator grants license to access land for 30 years. Advantages: (1) May be attractive to landowner, and (2) agreement would be recordable with the land. Important to note that access rights – not hunting rights – are purchased (*Begley*).
- Need to consider that there is a dollar figure tied to “access.” Paul Sihler and Alan Charles presentations demonstrated this fact – Block Management “impact fees,” for example. Should FWP require a similar license? (*Begley*)
- Liquidated damages need to be “painful.” There should be a 20% recoup cost and contract should be recorded. (*Perry*)
- **Action item:** For our next council meeting, first thing on the agenda will be to investigate various contract examples that meet the needs of the UGBHEP. Senator Shockley and Mike Begley will work with Bob Lane, FWP Chief Legal Counsel, on revised contract. Bob Lane will be invited for the whole day. Council members may provide comments and ideas to Debbie Hohler.
- **Action item:** FWP should explore the option to impose a higher penalty based on increased real estate value without making it seem like a penalty.
- **Action item:** Sen. Shockley would like legal counsel’s opinion on a 100% repayment option.

6. **Block Management Program.** Alan Charles, Coordinator for Landowner/Sportsman Relations, gave a presentation on the history and summary of the Block Management Program. Other states access programs were described. Alan went over the philosophy of guide content and the means for distribution. Discussion followed.

7. Council recognized biological value of a shelterbelt at the end of the contract term.

- Recommends developing a policy to address shelterbelt maturity. (*Roberts*)
- Need to make contract attractive to landowner – other partnerships are available to help offset the project's cost. (*Walker*)
- After 15 years, the cooperator should receive an incentive to maintain the shelterbelt. (*Sen. Shockley*)
- When the shelterbelt contract terminates, propose a \$10,000 payment for another 10 years for access and maintenance. (*Perry*)
- Consider a 2-tiered cash rent: (1) maintain project, and (2) provide access. Offer needs to be lucrative to the landowner. (*Haugen*)
- Council discussed the option of "Right of First Refusal."

8. Council discussed how the current economic state will affect FWP and hunters.

- Consideration to how and where impacts may be seen.
- Possibly see effects to hunting and fishing opportunities. For example, resident license sales might increase and nonresident licenses might decline. (*Rep. French*)
- **Action item:** Council asked for 2009 hunting stats. *Update: Robin Russell, Wildlife Biometrician, was contacted and harvest survey calls were completed the end of March. Robin said UGB hunting stats will be available mid-May.*
- **Action item:** FWP will get data on the number of outfitter licenses sold for the past 5 years.

9. Diane Boyd, Ashley Beyer, and Drew Henry were invited to provide comments to the Council. The Council encourages feedback from the UGB Habitat Biologists.

- The biologists will be formally on the agenda during the Sept/Oct meeting.
- The biologists supported adopting the NRCS cost list model to facilitate implementing projects and contract development.
- Discussion on the NRCS cost list followed, seeking ways to accomplish this proposed change.
 1. FWP will need to visit with the legislative auditors to go over the NRCS cost list.

2. Adopt the cost list into an ARM (as process). One possibility is to contract with an MSU economist to fill in any voids. (*Sen. Shockley*)

10. Mike Jensen handed out photos of this past emergency supplemental feeding. Mike expressed concerns about supplemental feeding and recommended that emergency feeding funds be decentralized.

- Rick Northrup's response: The process has been spelled out. Past history has demonstrated some lack of consistency. The department went back to centralized emergency supplemental feeding.

11. Council revisited the revenue and expenditures of the UGBEP budget.

- Caution noted that the program could exceed dollars available with our intent to increase program capacity. (*Haugen*)
- Rep. French cited page 9 of the 2009 Legislative Audit whereby there could be potential changes on how nonresident licenses may be apportioned to programs.
- Based on past discussions on pheasant releases, emergency supplemental feeding, and administrative expenditures, this leaves about 50% for habitat. (*Perry*)
- Majority of funds (60%) should be on habitat. (*Begley*)
- Consider that we will be leveraging funds with NRCS. (*Kujala*)

12. Council continued to develop recommendations on the strategic plan. FWP will provide the Council with an updated strategic plan outline that incorporates Council recommendations and identifying other areas that need further discussion.

13. Wrap-up, Review Assignments, and Adjourn. The next Council meeting will be held in Billings on May 11 and 12.

14. Representative French adjourned the meeting at 3:00 pm.